

RECEIVED

FEB 16 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

CLERK'S OFFICE OF COURT
COLUMBUS, OHIO

Dwayne Sims

(ENTER ABOVE THE NAME OF THE PLAINTIFF IN THIS ACTION)

IF THE PLAINTIFF IS A PRISONER: PRISONER # 763-062

vs.

CJ McCloud

(ENTER ABOVE THE NAME OF THE DEFENDANT IN THIS ACTION)

IF THERE ARE ADDITIONAL DEFENDANTS PLEASE LIST THEM:

CYNTHIA DAVIS-Dwo

- Corey Sommers-Nurse

Jeremy oppr-unit (management chief)

Harry Green - Administrative Assistant

Donald Redwood - Warden

COMPLAINT

I. PARTIES TO THE ACTION:

PLAINTIFF: PLACE YOUR NAME AND ADDRESS ON THE LINES BELOW. THE ADDRESS YOU GIVE MUST BE THE ADDRESS THAT THE COURT MAY CONTACT YOU AND MAIL DOCUMENTS TO YOU. A TELEPHONE NUMBER IS REQUIRED.

DWAYNE SIMS

NAME - FULL NAME PLEASE - PRINT

Po Box 45699

ADDRESS: STREET, CITY, STATE AND ZIP CODE

Lucusville, Ohio 45699

(740) 259-5544

TELEPHONE NUMBER

IF THERE ARE ADDITIONAL PLAINTIFFS IN THIS SUIT, A SEPARATE PIECE OF PAPER SHOULD BE ATTACHED IMMEDIATELY BEHIND THIS PAGE WITH THEIR FULL NAMES, ADDRESSES AND TELEPHONE NUMBERS. IF NO ADDITIONAL PLAINTIFFS EXIST CONTINUE WITH THIS FORM.

PAGE 2 AND 3 OF THIS FORM DEAL ONLY WITH A PLAINTIFF THAT IS INCARCERATED AT THE TIME OF FILING THIS COMPLAINT.

2:23 CV 0540

JUDGE MARBLEY

MAGISTRATE JUDGE BOWMAN

IF YOU ARE A PRISONER FILING A CIVIL SUIT THE FOLLOWING INFORMATION IS REQUIRED:

PREVIOUS LAWSUITS:

- A. HAVE YOU BEGUN OTHER LAWSUITS IN STATE OR FEDERAL COURT DEALING WITH THE SAME FACTS INVOLVED IN THIS ACTION OR OTHERWISE RELATING TO YOUR IMPRISONMENT? YES (✓) NO ()
- B. IF YOUR ANSWER TO A IS YES, DESCRIBE THE LAWSUIT IN THE SPACE BELOW. (IF THERE IS MORE THAN ONE LAWSUIT, DESCRIBE THE ADDITIONAL LAWSUITS ON ANOTHER PIECE OF PAPER, USING THE SAME OUTLINE.)
 1. PARTIES TO THIS PREVIOUS LAWSUIT

PLAINTIFFS:

DWAYNE SIMS #753-052

DEFENDANTS:

Major (Chief of Security), Lt. Lindsey
Lt. Castree, Captain Farber, Cpl Beavers

2. COURT (IF FEDERAL COURT, NAME THE DISTRICT; IF STATE COURT, NAME THE COUNTY)

Southern District of Ohio

3. DOCKET NUMBER

2:22-cv-04367-JHG-KAD

4. NAME OF THE JUDGE TO WHOM THE CASE WAS ASSIGNED

5. DISPOSITION (FOR EXAMPLE, WAS THE CASE DISMISSED? WAS IT APPEALED? IS IT STILL PENDING?)

6. APPROXIMATE DATE OF THE FILING OF THE LAWSUIT

12/12/2022

7. APPROXIMATE DATE OF THE DISPOSITION

A. IS THERE A PRISONER GRIEVANCE PROCEDURE IN THIS INSTITUTION?
YES () NO ()

B. DID YOU PRESENT THE FACTS RELATING TO YOUR COMPLAINT IN THIS STATE PRISONER GRIEVANCE PROCEDURE? YES () NO ()

C. IF YOUR ANSWER IS YES:

1. WHAT STEPS DID YOU TAKE?

I wrote a informal complaint then filed a grievance after I was told send it to grievance

2. WHAT WAS THE RESULT?

DENIED, The Informal, The grievance never came back past the time for a response. Could not file a Appeal but wrote and advised-

D. IF YOUR ANSWER IS NO, EXPLAIN WHY NOT.

Went over there 14 days That they had to respond

E. IF THERE IS NO PRISON GRIEVANCE PROCEDURE IN THIS INSTITUTION, DID YOU COMPLAIN TO PRISON AUTHORITIES? YES () NO ()

F. IF YOUR ANSWER IS YES:

1. WHAT STEPS DID YOU TAKE?

I wrote a informal complaint about my grievance time expiring

2. WHAT WAS THE RESULT?

No response back from Institutional Inspector No Appeal form given!

DEFENDANTS:

PLACE THE NAME AND ADDRESS OF EACH DEFENDANT YOU LISTED IN THE CAPTION ON THE FIRST PAGE OF THIS COMPLAINT. THIS FORM IS INVALID UNLESS EACH DEFENDANT APPEARS WITH FULL ADDRESS FOR PROPER SERVICE.

1. Cp McCloud
NAMES - FULL NAME PLEASE
Po Box 45699 Lucasville, Ohio 45699
ADDRESS - STREET, CITY, STATE AND ZIP CODE
2. Cynthia Davis - Deputy Warden operation
Po Box 45699 Lucasville, Ohio 45699
3. Teserry Oppy - Unit Management Chief
Po Box 45699 Lucasville, Ohio 45699
4. Larry Green - Administrative Assistant
Po Box 45699 Lucasville, Ohio 45699
5. Donald Redwood - Warden
P.O Box 45699 Lucasville, Ohio 45699
6. Corey Sammons - Nurse 2
Po Box 45699 Lucasville, Ohio 45699

IF THERE ARE ADDITIONAL DEFENDANTS, PLEASE CONTINUE LISTING THEM.

PLEASE WRITE AS BRIEFLY AS POSSIBLE THE FACTS OF YOUR CASE. DESCRIBE HOW EACH DEFENDANT IS INVOLVED. INCLUDE THE NAME OF ALL PERSONS INVOLVED. GIVE DATES AND PLACES.

DO NOT GIVE ANY LEGAL ARGUMENTS OR CITE ANY CASES OR STATUTES.

IF YOU HAVE A NUMBER OF DIFFERENT CLAIMS; PLEASE NUMBER AND SET FORTH EACH CLAIM IN A SEPARATE PARAGRAPH. USE AS MUCH SPACE AS YOU NEED. YOU ARE NOT LIMITED TO THE PAPERS WE GIVE YOU. ATTACH EXTRA SHEETS THAT DEAL WITH YOUR STATEMENT CLAIM IMMEDIATELY BEHIND THIS PIECE OF PAPER.

A. ON Oct. 31 2022 Apx 10:30 am - 11:00 am J2 Cell 17 I had my hand in my cuff port asking for a white shirt due to the fact I have been in R.H over 27 days when you can only do up to 27 days for any rule violation that is in the guidelines of R.C.B Disposition and not a b.c or any other special R.H time In R.H, on Oct. 31 2022 it was the 33rd day I have been in R.H. C/o McCloud and some New officers He was training came up to my cuff port C.B McCloud told me To get my hand out of the cuff port I said no follow protocol I need a white shirt C.B McCloud then grabbed the cuff port and slammed it on my hand and began to push with all of his weight on the cuff port with my hand in it trying to break it and not letting me remove it from the cuff port I damaged my hand severely and my left hand suffered damage and my Right Elbow and arm suffered damage from trying to push the cuff port off of my left hand.

B. Then The Nurses came to my door asked me Was I ok I Said No my hand is swollen and either suffered nerve damage or fracture or broken I need to come down to medical I was told by the Nurse and The white shirt No and they walked away and left me in my cell without my water or me get checked out.

C. upon Information and Belief I was Being Retaliated on for a law suit I had on the Major of Glass Correctional Institution I found out He was a Employee Here at Southern Ohio Correctional

Deficiency. The law suit is a assault The major stupid me three times in my face and punched me three times in my face inside the captain office the same day my brother died Oct 9th 2021, also the CMA refused to let me off of E.R.H placement after the S.M.P panel tried to give me another year on E.R.H for a threat tract the warden denied my appeal 08/18/2022 I appealed to Columbus OSC and won Karr L. Hupka Program Administrator III granted my appeal 08/23/22 To Be complete for a new review I was told by oppy on several occasions he is not doing a review received a email But I sent him a copy of my appeal in the mail and he never answered it, also after the Oct 31 2022 incident I never was given received and disciplinary action in the mail saying I refused to attend my Trial & R.I.B Hearing and disciplinary actions was given for a Rule 4 staff assault I was released out of J-2 cell 17 Nov 1 2022 and sent of assault a CP I would of went to J-1 a discipline block for 90 days saying Im Being S.M.P for a Rule 4 staff assault when I never signed a 48 hour notice and on the S.M.P packet its a signature on there saying that I signed my S.M.P when I never had a hearing for nothing this is another retaliation I told the warden Donald Redwood the deputy warden Cynthia Davis D.W.D Harry Green Administrative Assistant they all said the same thing that's oppy can't I send him at all and I'm still on E.R.H placement without any review

Unlegal Claims

- 1) defendant Harry Green - Administrative Assistant did not answer to my complaint about me receiving another year on E.R.H Extended Restriction Housing for a Rule 4 assault on C/O McClelland after I wrote a complaint about it I never received any conduct report for a Rule 4 or a R.I.B Hearing or any disciplinary sanctions but was given a S.M.P Hearing packet that I never had and given another year. I had no appeal form for the conduct report or a appeal for for the R.I.B Hearing due to me never receiving and hearings regarding this incident. This is a violation of the Fourteenth Amendment Right, it prohibits process of law, also the 33 days I was left in segregation when you are only allowed to do up to 24 days in R.H. is a violation of Plaintiff's rights under the Eighth Amendment to the United States Constitution and causing Plaintiff's pain & suffering and emotional distress.

2) Defendant McCloud used and continue to use excessive force against Plaintiff by pushing several times on the cuff port after he slammed my hand in there intentionally trying to break my hand when gives 25 Not breaking any prison Rules or acting disruptively in any way Defendant McCloud action violated and continues to violate Plaintiff Rights by having him In The hole over 29 days when I never had a ticket to go to The hole or stay in The Hole This violated Plaintiff Rights under The Eighth Amendment To the united States Constitution and is causing Plaintiff Sims pain, suffering and physical injury and emotional distress.

2) By witnessing Defendant McCloud illegal action failing to correct that misconduct, and Encouraging the continuation of the misconduct, Defendant Sommers is also violating Plaintiff Sims Rights under the Eighth Amendment to the united States Constitution By Refusing him medical and to look at his injuries and damages to hand and arm causing Plaintiff Sims pain, suffering physical injury, and emotional distress

3) By threatening Plaintiff Sims with physical and mental violence for Exercise of his Right to seek redress from the person through use of "prison grievance system" Defendant Cynthia Davis Deputy Warden of operation, Defendant Jeremy oppr-unit management chief, Defendant Harry Green Administrative Assistant, Defendant Donald Redwood-Warden all was informed that I Never Received a New Review when I won my classification appeal I was still left on E.R.H placement and after Being assaulted By Defendant McCloud The Defendant Harry green and knew I was assaulted, on 12/20/22 I Recived a S.M.P paper work and given another year on E.R.H for a Rule 4 assault on Staff, that I never Received a Conduct Hearing or R.I.B Hearing and a S.M.P Hearing I never Received any conduct display actions for assaulting a C/O I was released out The hole and placed on a E.R.H Block The Defendant allowed and Encouraged The continuation of The misconduct Plaintiff Sims right under the first amendment to the united States Constitution. These illegal actions are causing Plaintiff Sims injury to his first amendment Right

4) Plaintiff Sims has no plain, adequate or complete remedy at law to address the wrongs described herein. Plaintiff Sims has been and will continue to be irreparably injured by the conduct of the Defendants unless this court grants the declaratory and injunctive relief which Plaintiff seeks.

RELIEF

IN THIS SECTION PLEASE STATE (WRITE) BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU. MAKE NO LEGAL ARGUMENT, CITE NO CASES OR STATUTES.

I would like the court to grant me injunction from the Warden, The DOO, Harry Green-Adwin Assistant, also OMA oppr I would like the false beliefs and S.M.P decisions and level 4 placement also harassment to stop and to fix all the false beliefs and R.I.B decisions, also I would be asking for compensatory damages, for physical abuse also mental abuse from all the defendant and pain and suffering from all the defendants and also punitive damages for leaving me on E.R.H placement pass my time from all the defendants except C.D. medical and punitive damages from all the defendants for leaving me in L.H over 24 days Court, unusual punishment and all the pattern of abuse I would ask for the same for medical failing to assist me and check my vitals look at my damages to hand and arm I would ask for \$200,000 in punitive damage, and \$100,000 in compensatory damage and Nominal damages \$100,000 Plaintiff also seek Jury Trial on all issues Injue by jury plaintiffs will seal money of their cost in this suit I pray!

SIGNED THIS 26th DAY OF January 2023.



SIGNATURE OF PLAINTIFF

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008					
1. Submit to Appropriate Federal Agency: (Prison Litigation Reform Act)		2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. DWAYNE SIMS #953-062 PO BOX 45699 LUCASVILLE, OHIO 45699							
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		4. DATE OF BIRTH 07/06/95		5. MARITAL STATUS Single		6. DATE AND DAY OF ACCIDENT 10/31/22		7. TIME (A.M. OR P.M.) 10:30 am	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). By Slamming The Cuff Port on his hand and pushing on The cuff port with all his weight over and over trying to break his hand when Sims was not Violating any Prison Rules and Violated Plaintiff rights under the Eighth Amendment To the United States Constitution and caused Sims pain and suffering physical injury and emotional distress									
9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).									
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).									
10. PERSONAL INJURY/WRONFUL DEATH STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDED. Plaintiff Dwayne Sims suffered and nerve damage in left hand and a swollen hand, and a torn muscle or ligament in right arm, Emotional distress and pain and suffering									
11. WITNESSES NAME _____ ADDRESS (Number, Street, City, State, and Zip Code)									
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)									
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY \$300,000		12c. WRONGFUL DEATH		12d. TOTAL (Failure to specify may cause forfeiture of your rights) \$300,000			
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.									
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). Dwayne Sims					13b. PHONE NUMBER OF PERSON SIGNING FORM (216)-703-8409			14. DATE OF SIGNATURE 1-26-23	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM					CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS				
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)					Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)				

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? Yes No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.



**666 Broadway
7th Floor
New York, NY 10012**

SOCF

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DWAYNE SIMS 753-052
878 COITSVILLE HUBBARD RD
YOUNGSTOWN, OH 44505-4635

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